



May 16, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

**Re: Ex Parte Presentation by Sainte Sepulveda
MB Docket No. 02-277**

Dear Ms. Dortch:

On Wednesday and Thursday, May 14 & 15, 2003 Sainte Sepulveda, Inc, (Sainte) licensee of KBVU, Eureka, CA, visited the following persons at FCC to discuss the issues in FCC Docket MB 02-277.

Meetings were had with:

Susan Eids, Office of Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy and Stacey Robinson
Commissioner Michael J. Copps and Jordan Goldstein
Catherine Bohigian, Office of Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein and Johanna Mikes
Ken Ferree, Chief Media Bureau
Roy Stewart, Jerry Duvall, Barbara Kreisman and Robert Ratcliffe, Media Bureau

Present on behalf of Sainte were:

Chester Smith, President of Sainte
Gregg Skall, Womble Carlyle Sandridge and Rice, LLC
Jeff Lane, Womble Carlyle Sandridge and Rice, LLC
Ashley Thrift, Womble Carlyle Sandridge and Rice, LLC

The matters discussed were the television multiple ownership rule found at §73.3555 of the Commission's rules and the waiver standard for that rule, currently found in note 7 to §73.3555. Sainte offered its opinion and experience to the effect that some liberalization of the local multiple ownership rule for television is necessary in the very smallest of markets, and its view that such liberalization should be accomplished in the current docket regarding the 2002 Biennial Regulatory Review MB Docket No. 02-277.

In support of its position, Sainte offered the example of its current situation in the 190th DMA, Eureka California. This market has limited television advertising revenues that are not growing due to the stalled local economy. For the last four years Sainte and another television in the market have consistently lost money. It is Sainte's suspicion that all but perhaps one television station has lost money in the Eureka market. Thus, it has concluded that the market produces insufficient revenue to support the number of local television stations and media outlets attempting to serve the community. The market is sharing these revenues among the existing four commercial television stations and a fifth station that is a WB network affiliate, on a leased cable channel.

In addition, the market has an additional non-commercial television station that is selling underwriting and a cable system that has 74% cable penetration in the DMA, and likely much higher in the city of Eureka itself. Moreover, there are thirteen low power television stations licensed to Eureka. Based on Sainte's own experience with LPTV, it believes that LPTVs are usually quite capable of full service to small markets like Eureka. Also competing for viewers is satellite TV, and there is no local-into-local in Eureka. There is also a daily and a weekly newspaper, taking advertising revenue out of the market. Most of the viewership and advertising is sold within the local environs of Eureka itself, where the population is only 26,126¹.

Moreover, despite having operated at a loss since its inception, Sainte has incurred the additional cost of building and placing into service its digital facilities, in compliance with FCC requirements. With increasing costs and no potential for increased revenue, one way that television stations in the Eureka market are attempting to stem the red ink is to cut operating costs. For a television station, that means that it must discontinue the costliest part of its operation, that is usually producing the local news. Indeed, that is exactly what is happening in Eureka, as some stations are shutting down local studios and moving their origination to combined facilities in other locales. In support, Sainte offers the following statistical results of its operation and of another local Eureka station, KVIQ.

The results of KBVU's operations are reflected in the following chart.

¹ 2000 U.S. Census

Year	Financial Results
1999	(\$11,633.00)
2000	(\$88,265.00)
2001	(\$5,634.00)
2002	(\$10,456.00)
Total Losses	(\$115,988.00)

Clear Channel TV, Licensee of station KVIQ, had an even worse financial experience in Eureka. It has shared the results of its operations with Sainte and has authorized Sainte to reveal these financial results with the Commission. The EBIT results of KBVU's operations are reflected in the following chart.

Year	Financial Results
1999	(\$1,332,139.00)
2000	(\$1,322,134.00)
2001	(\$1,213,571.00)
2002	(\$334,152.00)
Total Losses	(\$4,201,996.00)

Clearly, neither company can afford to continue operations in this fashion. However, were they to combine operations under a single owner they could share production facilities and operations and thereby realize substantial savings from economies of scale. With combined operations, Sainte believes that both stations would be able to provide local news and broader local public affairs programming. Sainte calculates, for example, that with another station in combination, it could produce "local" news programming in Eureka at 6 PM, 10 PM and 11 PM, whereas as a standalone, it would be unlikely that it could produce any local news.

Accordingly, Sainte believes that any rule that would halt television station duopoly among the top four stations, or at five or more to a market would be unworkable for the smallest of the small markets. It might preserve separate ownership, but it would ultimately result in "voiceless" stations that merely imported programming produced elsewhere. However, Sainte calculates that allowing the very small markets to combine station ownership, would allow at least two or more "true" voices in even economically depressed areas such as Eureka. Accordingly, Sainte proposed that in the very smallest markets, perhaps those television markets above 100, or above 125, or in markets that have less than five commercial television stations, that there be allowed TV station duopolies so long as at least two station owners survive. Another possibility would be adoption of the NAB's 10/10 proposal.

It should be noted that even with such a rule, in Eureka, there would still be 46 local electronic and print outlets in the Eureka market according to the Gale Group Directory of

Publications and Broadcast Media. Counting from more standard resources such as Broadcasting and Cable Yearbook and Television Factbook, there would still be thirty electronic and 2 print media in the market, if you count LPTV, and 17 electronic and 2 print media if you do not.

Furthermore, Sainte stated that the requirement in the waiver provisions of current NOTE 7 to §73.3555 that requires that the station be placed on the market such that it can be certified that there is no out-of-market potential purchaser is unrealistic. There may always be another purchaser who will buy at a reduced price, but the real question is whether that purchaser would produce local programming of relevance to the local residents. A carefully constructed waiver process that evaluates such a representation as a part of the public interest showing in support of the waiver would go much farther toward producing a true benefit to the market viewers than another out-of-market station simply importing programming.

Sainte asks that the Commission consider its views when it decides what to do for the very small television markets in voting on the Biennial Regulatory Review.

Respectfully submitted,


Gregg P. Skall

cc: Susan Eid
Commissioner Kathleen Q. Abernathy
Stacy Robinson
Commissioner Michael J. Copps
Jordan Goldstein
Catherine Bohigian
Commissioner Jonathan S. Adelstein
Johanna Mikes
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